

State of California
BOARD OF EQUALIZATION
DIESEL FUEL TAX REGULATIONS

Regulation 1432. OTHER NONTAXABLE USES OF DIESEL FUEL IN A MOTOR VEHICLE.

Reference: Revenue and Taxation Code Sections 60016, 60019, 60026, 60501, and 60502.

(a) POWER TAKE-OFF EQUIPMENT.

(1) A person may claim a refund for tax paid on diesel fuel used to operate power take-off equipment. Power take-off equipment is generally defined to be an accessory which is mounted onto a transmission allowing power to be transferred outside the transmission to a shaft or driveline. The accessory is usually either a small gearbox with an external shaft, or a short shaft with a driveline yoke assembly for attaching an external driveline. The vehicle's transmission must be specially designed for a power take-off.

(2) Power take-off equipment may be found, for example, on boom trucks (block boon), bulk feed trucks, car carriers or trucks with hydraulic winches, carpet cleaning vans, cement mixers, distribution trucks (hot asphalt), dump trailers, dump trucks, fire trucks, leaf trucks, lime spreaders, line trucks (digger/derrick), aerial lift trucks, milk tank trucks, mobile cranes, pneumatic tank trucks, refrigeration trucks, salt spreaders (dump with spreader), sanitation trucks, seeder trucks, semi-wreckers, service trucks with jackhammers, pneumatic drills, sewer cleaning trucks (sewer jet, sewer vactor), snow plows, spray trucks, sweeper trucks, tank trucks, tank transports and wreckers.

(b) OFF-HIGHWAY USE.

(1) A person may claim a refund for tax paid on diesel fuel used off the highway. "Off the highway" includes private property, a way or place permanently or temporarily closed to public use for the purpose of vehicular travel, or any way or place used for vehicular travel which is not a highway as defined in Regulation 1411.

(2) If the diesel fuel is used in the operation of construction equipment which is exempt from registration under the Vehicle Code, the user must establish to the satisfaction of the Board that the diesel fuel is used in the operation of the construction equipment while operated within the confines or limits of a construction project and only incidentally operated on the highway within such confines or limits.

(3) As used in subdivision (2), "incidentally operated" does not include the use of special construction equipment for the transportation of persons or property upon the highways in an operation which requires registration of the vehicle under the Vehicle Code.

(c) REFUNDS. Persons who acquire diesel fuel tax paid and subsequently use the diesel fuel in power take-off equipment or off the highway are entitled to a refund of the diesel fuel tax paid for that fuel. Persons claiming a refund may use any method to calculate the amount of refund, including computing a percentage of the fuel used for nontaxable purposes. It is the responsibility of the person claiming the refund to document and support the amount claimed.

(d) IDLE TIME. Diesel fuel consumed in motor vehicles on the highway is subject to the diesel fuel tax whether the motor vehicle is moving or idling, and no refunds will be allowed for diesel fuel tax paid on diesel fuel which is used to idle a vehicle on the highway. If the vehicle is idling on the highway while power take-off equipment is in use, a refund will be allowed for the diesel fuel tax paid on that portion of the diesel fuel which is used to operate the power take-off equipment; however, no refund will be allowed for the diesel fuel tax paid on that portion of the diesel fuel which is used for idling.

History: Adopted December 9, 1998, effective March 31, 1999.